

MINUTES
CLAY COUNTY PLANNING COMMISSION
7:00 P.M., TUESDAY, JULY 19, 2016
MEETING ROOM B - THIRD FLOOR COURTHOUSE

Members Present: Mark Klevgaard, Tom Jensen, Jenny Mongeau, Randy Schellack, Amos Baer, Mike Hulett, Tim Brendemuhl

Members Absent: Bill Davis, Dan Langseth, Andrea Koczur

Others Present: Tim Magnusson, Colleen Eck, Jenny Samarzja, Kathy Ihle, Frank Gross, Rich Eggert, Bryan Dullum, Kathy Dullum, Kim Jeral, Shelley Steichen, Mark Ciernia, Brent Strand, Ray Kvalvog, Bruce Bang, Lori Pender, Vern Kroshus, Barb Kroshus

APPROVAL OF AGENDA

On motion by Hulett, seconded by Mongeau, and unanimously carried, the Commission approved the agenda.

APPROVAL OF MINUTES

On motion by Jensen, seconded by Schellack, and unanimously carried, the Commission approved the minutes from June 21, 2016.

CITIZENS TO BE HEARD

There were no citizens to be heard

BRUCE BANG - INTERIM USE REQUEST

The applicant is seeking approval of an Interim Use Permit to allow the temporary placement of up to seven recreational vehicles/travel trailers on his property. The property is approximately 15 acres in the SW Quarter, SW Quarter, Section 26, T138N, R44W (Parke Twp). Said property is zoned Agricultural General (AG) with a Resource Protection-Aggregate (RP-Agg) overlay zone.

On motion by Brendemuhl, seconded by Hulett, and unanimously carried, the Planning Commission approved opening the public hearing.

Tim Magnusson, Planning Director, stated this is an after-the-fact permit. The applicant had an IUP for a similar use in 2013 and in 2015. This property is currently used as a farmstead with a house and several outbuildings. It provides frontage and access on 280 St S. The applicant is seeking a permit to allow the temporary placement of up to seven (7) campers, to be used by aggregate mining workers on the same parcel. The campers are removed once the mining company completes its work. Magnusson noted the applicant needs to provide documentation to the County Environmental Health Department that sewage and solid waste are being properly handled. The staff recommends approval of the proposed IUP with a termination date on the permit of December 31, 2016. He added that campground also needs to be licensed by the State

of Minnesota, and be renewed annually.

The applicant, Bruce Bang, stated that a crushing crew usually comes in between April and November and are done and moved off the site in a matter of weeks. He does not get much notice ahead of time for when they are coming to stay at the site and crush material in the Bang gravel mine. This year, they came in June and were done by the 4th of July. Bang talked to Magnusson in June, but could not get on the Planning Commission agenda until now. He noted that the campers/trailers are all self-contained. They hook into his electrical pole and use Dewey's Septic Service to pump their tanks if needed. Mongeau suggested that the applicant be given an IUP that would last for five years so he does not need to come back to the commission each year. Jenny Samarzja, Assistant County Attorney, noted that the licensing issue is separate from this commission; and this permit does not mean that he is licensed by the State for a campground. They are two separate matters. Jensen suggested Mr. Bang become a licensed campground.

The chairman asked if there was anyone else present who wished to speak for or against the request.

On motion by Hulett, seconded by Jensen, and unanimously carried, the Planning Commission closed the hearing.

The Findings of Fact for Interim Use Permits was read and there were no issues found.

On motion by Mongeau, seconded by Hulett, and unanimously carried, the Planning Commission approved Bruce Bang's request for the temporary placement of up to seven recreational vehicles/travel trailers on his property located in the SW¹/₄, SW¹/₄, Section 26, Parke Township with the following conditions:

- 1. No more than seven (7) campers may be placed on the site.**
- 2. All campers must meet the setbacks required for structures as listed in the Clay County Development Code.**
- 3. Evidence of proper sewage disposal and solid waste disposal shall be provided to Clay County Environmental Health**
- 4. All campers must be removed from the site no later than December 31 of each year; with the permit expiring on December 31, 2021.**

KARL GOEHRING - INTERIM USE REQUEST

The applicant is seeking approval of an Interim Use Permit to allow the placement of up to six recreational vehicles/travel trailers on his property. The property is approximately .98 acres in size and is Lot 4, Block 1, Broadmoor Subdivision located in the NE Quarter, SW Quarter, Section 7, T140N, R48W (Oakport Twp). Said property is in the Agricultural General (AG) and Flood Fringe (FF) zoning districts.

On motion by Mongeau, seconded by Schellack, and unanimously carried, the Planning Commission approved opening the public hearing.

Tim Magnusson stated that the property is in a platted subdivision next to the City of Moorhead.

This property is currently vacant and used for hay land. It provides frontage and access onto 74th Ave. NW. Magnusson pointed out the nearest ten residences which are within 1200 feet for this site. The closest residences are less than 100 feet and 160 feet. Magnusson had received a phone call regarding campers at the site and went out to the site to investigate. They are hooked into an electrical pole and there is a well for water connection. There are connections for six campers. The applicant is requesting temporary placement of up to six (6) campers, to be used by dike construction workers, on the above described parcel. The campers would be removed once the Oakport diking project is completed, projected to be by October 1, 2016. Magnusson commented that placing a temporary campground in this location could create some issues between homeowners and temporary residents. If the campers were to be located in the yard of the applicant's home there would be less impact and a greater separation to other property owners.

Tim Brendemuhl, who is also an Oakport Township officer, noted that he has received phone calls on this issue, too. The township has not had a meeting since this issue arose.

The staff recommendation is for denial of this request for the following reason(s): 1) the property is in a platted, residential subdivision intended for single-family homes; and 2) possible impact on established residential sites, in close proximity, not belonging to the applicant;

The chairman asked if there was anyone else present who wished to speak for or against the request.

Vernon Kroshus stated that he lives on the property just west of this site. He noted that within this subdivision, Goehring moved in a really run-down flood house and garage, bee hives, and now campers. He found out about the campers when one of them was wandering around his property one night. He stated that he is against the request and also provided a list of other residents who are also against it. He believes that a campground would devalue their properties.

Bryan Dullum stated that he is also against the proposal. He believed allowing campers would devalue their properties and added that they can't be sure that it's just short-term use.

Rick Eggert stated that he is a neighbor who is with Moorhead and Dilworth Fire Departments. He noted that it is a true safety concern having temporary construction workers out there that no one knows. He is out of town some of the time and does not want his family's safety at risk.

On motion by Hulett, seconded by Schellack, and unanimously carried, the Planning Commission closed the hearing.

The Findings of Fact for Interim Use Permits were discussed and issues were brought up involving Items 2, 3, 5, 7, and 8.

- **Use and Enjoyment of Other Property:** The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, and not substantially diminish or impair property values within the immediate vicinity.
- **Development of Surrounding Property:** The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

- **Nuisance Conditions:** Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, water pollution and soil erosion, so that none of these will constitute a nuisance, and to control lighted signs or other lights in such manner that no disturbance to neighboring properties will result.
- **Compatibility:** The use will be sufficiently compatible or separated by distance or screening from adjacent agriculturally zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to agricultural use of said land
- **Appearance of Structure and Site:** The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties

On motion by Hulett, seconded by Brendemuhl, and unanimously carried, the Planning Commission denied a request from Karl Goehring for an Interim Use Permit to allow the placement of up to six recreational vehicles/travel trailers on his property on Lot 4, Block 1, Broadmoor Subdivision located in the NE ¼ SW ¼ Section 7, Oakport Twp.

BRB LLC – PETITION FOR REZONING

The applicant is seeking approval of a petition to rezone a 7.66-acre parcel. The parcel is currently zoned Agricultural General (AG) with an Urban Expansion District (UED) overlay zone. The request is to remove the UED zoning from the parcel. Said parcel fronts on 46th Ave. S. and abuts the City of Moorhead. It is located in the NW Quarter SE Quarter, Section 29, T139N, R48W (Moorhead Twp.).

On motion by Schellack, seconded by Brendemuhl, and unanimously carried, the Planning Commission approved opening the public hearing.

Tim Magnusson, Planning Director, stated that the same request was heard just over a year ago. At that time, there had been a mapping error in the underlay zoning, showing the parcel as Commercial zoning; however, it is actually Agricultural General zoning, not Commercial zoning. Storage buildings are allowed in Agricultural General zoning, but not in the Urban Expansion District (UED) overlay zone. There are two small grain bins and a Quonset on the parcel which has been used as cultivated agricultural land. The parcel is on the northern end of the UED district which was squared off when the zoning map was done. This request is to remove the overlay district, allowing the applicant to apply for a Conditional Use Permit (CUP) to construct a 101-unit commercial storage facility on the site. Moorhead Township has the property zoned Agricultural Preservation-1 which may have to be changed before the intended type of commercial use could be established.

This property abuts the City of Moorhead along 46th Avenue South, and a commercial use in this area does not conform to the City's 2009 Future Land Use Map (FLU) or Growth Area Plan (GAP). These documents guide the future development of this property and surrounding properties toward low density residential development similar to that which is located south of 46th Avenue S and west of State Hwy 75. Magnusson commented that the nearby bus barns are also commercial. There are single family residences on the west side of Highway 75, and the east side of the highway was slated for multi-family residential in Moorhead's growth plan.

The County's UED zoning district was established to provide some degree of protection to the

incorporated communities from uses proposed at or near their municipal boundaries. In particular, it is directed toward close-in residential uses in unsewered areas and development with large lot sizes. This request is another example as to why the zoning district exists. The County's Comprehensive Plan states that the County should work closely and cooperatively with communities, especially in their Future Growth Areas to ensure that development does not have a negative impact on the community's orderly growth. Magnusson commented that this proposed rezoning and future use is not consistent with the intent of the County's ordinance nor provisions of the Comprehensive Plan. It is not consistent with the City of Moorhead's 2009 Future Land Use Map (FLU) or Growth Area Plan (GAP). For those reasons, staff recommendation was for denial of the rezoning request. Any decision reached by the Planning Commission will be forwarded, as a recommendation, to the Clay County Board of Commissioners for final action.

Mongeau stated she understood that this issue with the Urban Expansion Overlay District was going to be addressed by Planning staff and some of the Planning Commission members a year ago. She noted frustration that it has not been done, and the County is holding up people who have plans to develop property.

The applicants, Ray Kvalvog and Brent Strand, stated that their request was outlined accurately, and they are also frustrated with the timeline in getting a permit. They commented that their project would be a good fit with surrounding residential properties. They would meet the concerns and needs for aesthetics and would work with the City and County to make sure it is a first class project. Last year they waited for the City to conduct a study regarding sewer lines that took over a year to complete. They have spoken to a lot of the homeowners in the area about their plan, and listed other areas in the F-M area with storage buildings that fit with residential areas. There are other folks who also want to develop properties with commercial uses along this corridor. These uses should fit with the existing sites: a bus garage, radio tower, entrance to Blue Stem, etc. They have purchased this parcel and one other parcel, as well. They have met with the City Planner, too.

Samarzja noted that the decision on the application could be extended to 120 days with written notification to the applicant.

The chairman asked if there was anyone else present who wished to speak for or against the request.

On motion by Brendemuhl, seconded by Schellack, and unanimously carried, the Planning Commission closed the hearing.

The following standards from the County ordinance were reviewed; and the request was found to be inconsistent with the County goals and ordinances and the Comprehensive Plan.

Criteria and General Review Standards for Granting Zoning District Amendments:

1. Effect of Proposed Use: In granting a zoning district amendment, the Planning Commission shall consider the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands, existing and anticipated traffic conditions on adjacent streets and land, and the effect on agricultural usage in the surrounding area.
2. Additional Findings: In addition, the Planning Commission shall make the following

findings, among others, where applicable:

- a. Burden on Public Utilities: The development authorized by the rezoning will not create an excessive burden on any public facilities or utilities which serve or are proposed to serve the area.
- b. Related to Overall Needs: The rezoning is reasonably related to the overall needs of the County and to the existing land use.
- c. Consistency with Ordinance: The rezoning is consistent with the purposes of this Ordinance and the purposes of the zoning district in which the applicant seeks classification.
- d. Conflict with Comprehensive Plan: The rezoning is not in conflict with the comprehensive plans of any township or city of the County or the County Land Use Plan.
- e. Prematurely Stimulate Public Investment in Utilities: The rezoning will not either individually or cumulatively stimulate prematurely, public investment in the facilities and utilities described in subsection D.2.a. of this Section.

The commission discussed the other commercial properties along this highway; the gas pipeline running through there; and the County updating the Comprehensive Plan, which is a one-year process.

On motion by Jensen, seconded by Schellack, and carried with one nay vote (Mike Hulett), the Planning Commission recommended removing the Urban Expansion overlay district for the requested parcel which fronts on 46th Ave. S. and abuts the City of Moorhead, in the NW¼ SE¼ Section 29, Moorhead Township. Said recommendation will be forwarded to County Board for final action.

OTHER BUSINESS:

Gravel Mining Concerns

Kim Jeral and Shelley Steichen asked to speak to the board regarding the need for a staff person to act as a liaison between residents and gravel mining operators in the County. They would like to see the County have some protocol and enforcement in place to help make it fair to the residences who live near these gravel pits. They believe there is a need for traffic studies, noise pollution studies, and haul road studies. They have found there are residents who see contractors who do not follow the conditions of their permits. They do not want to speak up in fear of repercussions from the property owners, operators, and drivers. Magnusson stated that he gets very few reports from local law enforcement about problems due to gravel pits and gravel trucks. He noted that the Planning office has to operate on a complaint basis. Magnusson added that he has asked the County Board for a compliance officer in the past. Jenny Samarzja stated that the only remedy when an operator is in violation of a Conditional or Interim Use Permit is to pull the permit.

Mark Ciernia, Hagen Township Officer, stated that there are nine pits in Hagen Township. The township tries to keep hours of operation consistent, from 6:00 a.m. to 8:00 p.m. They want the County to be more consistent with hours and signage. The township has never revoked a permit because they know there is a demand for the material, but they speak to the landowner and the

operator if they get a complaint. He added that the landowner benefits, and the county sees a benefit with gravel tax from these pits. He believes the situation will get worse before it gets better.

Update on Addressing Thresholds for Animal Units

A subcommittee meeting will be scheduled for August 10 or 11 for discussion on thresholds for animal units. There was a request to have Zenas Baer included in the meetings.

On motion by Schellack and seconded by Hulett, the meeting adjourned at 8:50 p.m.

Thomas Jensen, Planning Commission Secretary